

1   **1. SHORT TITLE.**

2           This Act may be cited as the “Pension Funding Eq-  
3   uity Act of 2004”.

4           **TITLE I—PENSION FUNDING**

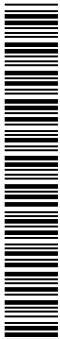
5   **SEC. 101. TEMPORARY REPLACEMENT OF 30-YEAR TREAS-**  
6                           **URY RATE.**

7           (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
8   OF 1974.—

9                   (1)   DETERMINATION       OF       PERMISSIBLE  
10       RANGE.—

11                   (A) IN GENERAL.—Clause (ii) of section  
12       302(b)(5)(B) of the Employee Retirement In-  
13       come Security Act of 1974 is amended by re-  
14       designating subclause (II) as subclause (III)  
15       and by inserting after subclause (I) the fol-  
16       lowing new subclause:

17                           “(II) SPECIAL RULE FOR YEARS 2004  
18       AND 2005.—In the case of plan years be-  
19       ginning after December 31, 2003, and be-  
20       fore January 1, 2006, the term ‘permis-  
21       sible range’ means a rate of interest which  
22       is not above, and not more than 10 percent  
23       below, the weighted average of the rates of  
24       interest on amounts invested conservatively  
25       in long-term investment grade corporate  
26       bonds during the 4-year period ending on



1 the last day before the beginning of the  
2 plan year. Such rates shall be determined  
3 by the Secretary of the Treasury on the  
4 basis of 2 or more indices that are selected  
5 periodically by the Secretary of the Treas-  
6 ury and that are in the top 3 quality levels  
7 available. The Secretary of the Treasury  
8 shall make the permissible range, and the  
9 indices and methodology used to determine  
10 the average rate, publicly available.”.

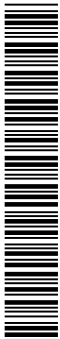
11 (B) SECRETARIAL AUTHORITY.—Subclause  
12 (III) of section 302(b)(5)(B)(ii) of such Act, as  
13 redesignated by subparagraph (A), is  
14 amended—

15 (i) by inserting “or (II)” after “sub-  
16 clause (I)” the first place it appears, and

17 (ii) by striking “subclause (I)” the  
18 second place it appears and inserting  
19 “such subclause”.

20 (C) CONFORMING AMENDMENT.—Sub-  
21 clause (I) of section 302(b)(5)(B)(ii) of such  
22 Act is amended by inserting “or (III)” after  
23 “subclause (II)”.

24 (2) DETERMINATION OF CURRENT LIABILITY.—  
25 Clause (i) of section 302(d)(7)(C) of such Act is



1 amended by adding at the end the following new  
2 subclause:

3 “(IV) SPECIAL RULE FOR 2004  
4 AND 2005.—For plan years beginning  
5 in 2004 or 2005, notwithstanding  
6 subclause (I), the rate of interest used  
7 to determine current liability under  
8 this subsection shall be the rate of in-  
9 terest under subsection (b)(5).”.

10 (3) CONFORMING AMENDMENT.—Paragraph (7)  
11 of section 302(e) of such Act is amended to read as  
12 follows:

13 “(7) SPECIAL RULE FOR 2002.—In any case in  
14 which the interest rate used to determine current li-  
15 ability is determined under subsection  
16 (d)(7)(C)(i)(III), for purposes of applying para-  
17 graphs (1) and (4)(B)(ii) for plan years beginning in  
18 2002, the current liability for the preceding plan  
19 year shall be redetermined using 120 percent as the  
20 specified percentage determined under subsection  
21 (d)(7)(C)(i)(II).”.

22 (4) PBGC.—Clause (iii) of section  
23 4006(a)(3)(E) of such Act is amended by adding at  
24 the end the following new subclause:

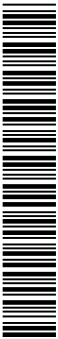


1           “(V) In the case of plan years beginning after  
2           December 31, 2003, and before January 1, 2006,  
3           the annual yield taken into account under subclause  
4           (II) shall be the annual rate of interest determined  
5           by the Secretary of the Treasury on amounts in-  
6           vested conservatively in long-term investment grade  
7           corporate bonds for the month preceding the month  
8           in which the plan year begins. For purposes of the  
9           preceding sentence, the Secretary of the Treasury  
10          shall determine such rate of interest on the basis of  
11          2 or more indices that are selected periodically by  
12          the Secretary of the Treasury and that are in the  
13          top 3 quality levels available. The Secretary of the  
14          Treasury shall make the permissible range, and the  
15          indices and methodology used to determine the rate,  
16          publicly available.”.

17          (b) INTERNAL REVENUE CODE OF 1986.—

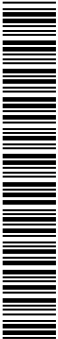
18                 (1)     DETERMINATION     OF     PERMISSIBLE  
19                 RANGE.—

20                         (A) IN GENERAL.—Clause (ii) of section  
21                         412(b)(5)(B) of the Internal Revenue Code of  
22                         1986 is amended by redesignating subclause  
23                         (II) as subclause (III) and by inserting after  
24                         subclause (I) the following new subclause:



1                   “(II) SPECIAL RULE FOR YEARS  
2                   2004 AND 2005.—In the case of plan  
3                   years beginning after December 31,  
4                   2003, and before January 1, 2006,  
5                   the term ‘permissible range’ means a  
6                   rate of interest which is not above,  
7                   and not more than 10 percent below,  
8                   the weighted average of the rates of  
9                   interest on amounts invested conserv-  
10                  atively in long-term investment grade  
11                  corporate bonds during the 4-year pe-  
12                  riod ending on the last day before the  
13                  beginning of the plan year. Such rates  
14                  shall be determined by the Secretary  
15                  on the basis of 2 or more indices that  
16                  are selected periodically by the Sec-  
17                  retary and that are in the top 3 qual-  
18                  ity levels available. The Secretary  
19                  shall make the permissible range, and  
20                  the indices and methodology used to  
21                  determine the average rate, publicly  
22                  available.”.

23                   (B) SECRETARIAL AUTHORITY.—Subclause  
24                   (III) of section 412(b)(5)(B)(ii) of such Code,



1 as redesignated by subparagraph (A), is  
2 amended—

3 (i) by inserting “or (II)” after “sub-  
4 clause (I)” the first place it appears, and  
5 (ii) by striking “subclause (I)” the  
6 second place it appears and inserting  
7 “such subclause”.

8 (C) CONFORMING AMENDMENT.—Sub-  
9 clause (I) of section 412(b)(5)(B)(ii) of such  
10 Code is amended by inserting “or (III)” after  
11 “subclause (II)”.

12 (2) DETERMINATION OF CURRENT LIABILITY.—  
13 Clause (i) of section 412(l)(7)(C) of such Code is  
14 amended by adding at the end the following new  
15 subclause:

16 “(IV) SPECIAL RULE FOR 2004  
17 AND 2005.—For plan years beginning  
18 in 2004 or 2005, notwithstanding  
19 subclause (I), the rate of interest used  
20 to determine current liability under  
21 this subsection shall be the rate of in-  
22 terest under subsection (b)(5).”.

23 (3) CONFORMING AMENDMENT.—Paragraph (7)  
24 of section 412(m) of such Code is amended to read  
25 as follows:

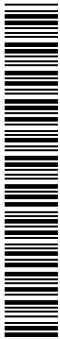


1           “(7) SPECIAL RULE FOR 2002.—In any case in  
2           which the interest rate used to determine current li-  
3           ability is determined under subsection  
4           (l)(7)(C)(i)(III), for purposes of applying paragraphs  
5           (1) and (4)(B)(ii) for plan years beginning in 2002,  
6           the current liability for the preceding plan year shall  
7           be redetermined using 120 percent as the specified  
8           percentage determined under subsection  
9           (l)(7)(C)(i)(II).”.

10           (4) LIMITATION ON CERTAIN ASSUMPTIONS.—  
11           Section 415(b)(2)(E)(ii) of such Code is amended by  
12           inserting “, except that in the case of plan years be-  
13           ginning in 2004 or 2005, ‘5.5 percent’ shall be sub-  
14           stituted for ‘5 percent’ in clause (i)” before the pe-  
15           riod at the end.

16           (5) ELECTION TO DISREGARD MODIFICATION  
17           FOR DEDUCTION PURPOSES.—Section 404(a)(1) of  
18           such Code is amended by adding at the end the fol-  
19           lowing new subparagraph:

20           “(F) ELECTION TO DISREGARD MODIFIED  
21           INTEREST RATE.—An employer may elect to  
22           disregard subsections (b)(5)(B)(ii)(II) and  
23           (l)(7)(C)(i)(IV) of section 412 solely for pur-  
24           poses of determining the interest rate used in



1 calculating the maximum amount of the deduc-  
2 tion allowable under this paragraph.”.

3 (c) PROVISIONS RELATING TO PLAN AMEND-  
4 MENTS.—

5 (1) IN GENERAL.—If this subsection applies to  
6 any plan or annuity contract amendment—

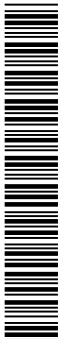
7 (A) such plan or contract shall be treated  
8 as being operated in accordance with the terms  
9 of the plan or contract during the period de-  
10 scribed in paragraph (2)(B)(i), and

11 (B) except as provided by the Secretary of  
12 the Treasury, such plan shall not fail to meet  
13 the requirements of section 411(d)(6) of the In-  
14 ternal Revenue Code of 1986 and section  
15 204(g) of the Employee Retirement Income Se-  
16 curity Act of 1974 by reason of such amend-  
17 ment.

18 (2) AMENDMENTS TO WHICH SECTION AP-  
19 PLIES.—

20 (A) IN GENERAL.—This subsection shall  
21 apply to any amendment to any plan or annuity  
22 contract which is made—

23 (i) pursuant to any amendment made  
24 by this section, and





1 (ii) on or before the last day of the  
2 first plan year beginning on or after Janu-  
3 ary 1, 2006.

4 (B) CONDITIONS.—This subsection shall  
5 not apply to any plan or annuity contract  
6 amendment unless—

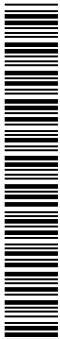
7 (i) during the period beginning on the  
8 date the amendment described in subpara-  
9 graph (A)(i) takes effect and ending on the  
10 date described in subparagraph (A)(ii) (or,  
11 if earlier, the date the plan or contract  
12 amendment is adopted), the plan or con-  
13 tract is operated as if such plan or con-  
14 tract amendment were in effect; and

15 (ii) such plan or contract amendment  
16 applies retroactively for such period.

17 (d) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-  
19 graphs (2) and (3), the amendments made by this  
20 section shall apply to plan years beginning after De-  
21 cember 31, 2003.

22 (2) LOOKBACK RULES.—For purposes of apply-  
23 ing subsections (d)(9)(B)(ii) and (e)(1) of section  
24 302 of the Employee Retirement Income Security  
25 Act of 1974 and subsections (l)(9)(B)(ii) and (m)(1)

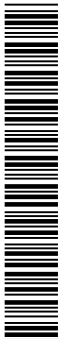


1 of section 412 of the Internal Revenue Code of 1986  
2 to plan years beginning after December 31, 2003,  
3 the amendments made by this section may be ap-  
4 plied as if such amendments had been in effect for  
5 all prior plan years. The Secretary of the Treasury  
6 may prescribe simplified assumptions which may be  
7 used in applying the amendments made by this sec-  
8 tion to such prior plan years.

9 (3) TRANSITION RULE FOR SECTION 415 LIM-  
10 TATION.—In the case of any participant or bene-  
11 ficiary receiving a distribution after December 31,  
12 2003 and before January 1, 2005, the amount pay-  
13 able under any form of benefit subject to section  
14 417(e)(3) of the Internal Revenue Code of 1986 and  
15 subject to adjustment under section 415(b)(2)(B) of  
16 such Code shall not, solely by reason of the amend-  
17 ment made by subsection (b)(4), be less than the  
18 amount that would have been so payable had the  
19 amount payable been determined using the applica-  
20 ble interest rate in effect as of the last day of the  
21 last plan year beginning before January 1, 2004.

22 **SEC. 102. ELECTION OF ALTERNATIVE DEFICIT REDUCTION**  
23 **CONTRIBUTION.**

24 (a) AMENDMENT OF ERISA.—Section 302(d) of the  
25 Employee Retirement Income Security Act of 1974 (29



1 U.S.C. 1082(d)) is amended by adding at the end the fol-  
2 lowing new paragraph:

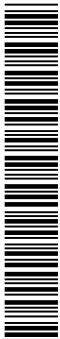
3 “(12) ELECTION FOR CERTAIN PLANS.—

4 “(A) IN GENERAL.—In the case of a de-  
5 fined benefit plan established and maintained  
6 by an applicable employer, if this subsection did  
7 not apply to the plan for the plan year begin-  
8 ning in 2000 (determined without regard to  
9 paragraph (6)), then, at the election of the em-  
10 ployer, the increased amount under paragraph  
11 (1) for any applicable plan year shall be the  
12 greater of—

13 “(i) 20 percent of the increased  
14 amount under paragraph (1) determined  
15 without regard to this paragraph, or

16 “(ii) the increased amount which  
17 would be determined under paragraph (1)  
18 if the deficit reduction contribution under  
19 paragraph (2) for the applicable plan year  
20 were determined without regard to sub-  
21 paragraphs (A), (B), and (D) of paragraph  
22 (2).

23 “(B) RESTRICTIONS ON BENEFIT IN-  
24 CREASES.—No amendment which increases the  
25 liabilities of the plan by reason of any increase



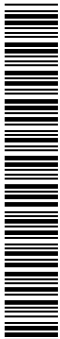
1 in benefits, any change in the accrual of bene-  
2 fits, or any change in the rate at which benefits  
3 become nonforfeitable under the plan shall be  
4 adopted during any applicable plan year,  
5 unless—

6 “(i) the plan’s enrolled actuary cer-  
7 tifies (in such form and manner prescribed  
8 by the Secretary of the Treasury) that the  
9 amendment provides for an increase in an-  
10 nual contributions which will exceed the in-  
11 crease in annual charges to the funding  
12 standard account attributable to such  
13 amendment, or

14 “(ii) the amendment is required by a  
15 collective bargaining agreement which is in  
16 effect on the date of enactment of this sub-  
17 paragraph.

18 If a plan is amended during any applicable plan  
19 year in violation of the preceding sentence, any  
20 election under this paragraph shall not apply to  
21 any applicable plan year ending on or after the  
22 date on which such amendment is adopted.

23 “(C) APPLICABLE EMPLOYER.—For pur-  
24 poses of this paragraph, the term ‘applicable  
25 employer’ means an employer which is—



1 “(i) a commercial passenger airline,

2 “(ii) primarily engaged in the produc-  
3 tion or manufacture of a steel mill product  
4 or the processing of iron ore pellets, or

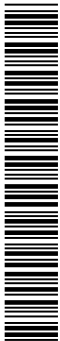
5 “(iii) an organization described in sec-  
6 tion 501(c)(5) of the Internal Revenue  
7 Code of 1986 and which established the  
8 plan to which this paragraph applies on  
9 June 30, 1955.

10 “(D) APPLICABLE PLAN YEAR.—For pur-  
11 poses of this paragraph—

12 “(i) IN GENERAL.—The term ‘applica-  
13 ble plan year’ means any plan year begin-  
14 ning after December 27, 2003, and before  
15 December 28, 2005, for which the em-  
16 ployer elects the application of this para-  
17 graph.

18 “(ii) LIMITATION ON NUMBER OF  
19 YEARS WHICH MAY BE ELECTED.—An elec-  
20 tion may not be made under this para-  
21 graph with respect to more than 2 plan  
22 years.

23 “(E) NOTICE REQUIREMENTS FOR PLANS  
24 ELECTING ALTERNATIVE DEFICIT REDUCTION  
25 CONTRIBUTIONS.—

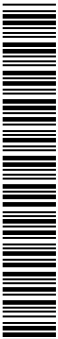


1 “(i) IN GENERAL.—If an employer  
2 elects an alternative deficit reduction con-  
3 tribution under this paragraph and section  
4 412(l)(12) of the Internal Revenue Code of  
5 1986 for any year, the employer shall pro-  
6 vide, within 30 days of filing the election  
7 for such year, written notice of the election  
8 to participants and beneficiaries and to the  
9 Pension Benefit Guaranty Corporation.

10 “(ii) NOTICE TO PARTICIPANTS AND  
11 BENEFICIARIES.—The notice under clause  
12 (i) to participants and beneficiaries shall  
13 include with respect to any election—

14 “(I) the due date of the alter-  
15 native deficit reduction contribution  
16 and the amount by which such con-  
17 tribution was reduced from the  
18 amount which would have been owed  
19 if the election were not made, and

20 “(II) a description of the benefits  
21 under the plan which are eligible to be  
22 guaranteed by the Pension Benefit  
23 Guaranty Corporation and an expla-  
24 nation of the limitations on the guar-  
25 antee and the circumstances under



1 which such limitations apply, includ-  
2 ing the maximum guaranteed monthly  
3 benefits which the Pension Benefit  
4 Guaranty Corporation would pay if  
5 the plan terminated while under-  
6 funded.

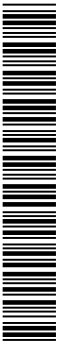
7 “(iii) NOTICE TO PBGC.—The notice  
8 under clause (i) to the Pension Benefit  
9 Guaranty Corporation shall include—

10 “(I) the information described in  
11 clause (ii)(I),

12 “(II) the number of years it will  
13 take to restore the plan to full fund-  
14 ing if the employer only makes the re-  
15 quired contributions, and

16 “(III) information as to how the  
17 amount by which the plan is under-  
18 funded compares with the capitaliza-  
19 tion of the employer making the elec-  
20 tion.

21 “(F) ELECTION.—An election under this  
22 paragraph shall be made at such time and in  
23 such manner as the Secretary of the Treasury  
24 may prescribe.”



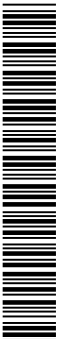
1 (b) AMENDMENT OF 1986 CODE.—Section 412(l) of  
2 the Internal Revenue Code of 1986 (relating to applica-  
3 bility of subsection) is amended by adding at the end the  
4 following new paragraph:

5 “(12) ELECTION FOR CERTAIN PLANS.—

6 “(A) IN GENERAL.—In the case of a de-  
7 fined benefit plan established and maintained  
8 by an applicable employer, if this subsection did  
9 not apply to the plan for the plan year begin-  
10 ning in 2000 (determined without regard to  
11 paragraph (6)), then, at the election of the em-  
12 ployer, the increased amount under paragraph  
13 (1) for any applicable plan year shall be the  
14 greater of—

15 “(i) 20 percent of the increased  
16 amount under paragraph (1) determined  
17 without regard to this paragraph, or

18 “(ii) the increased amount which  
19 would be determined under paragraph (1)  
20 if the deficit reduction contribution under  
21 paragraph (2) for the applicable plan year  
22 were determined without regard to sub-  
23 paragraphs (A), (B), and (D) of paragraph  
24 (2).



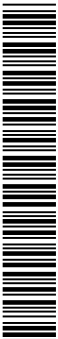


1           “(B) RESTRICTIONS ON BENEFIT IN-  
2 CREASES.—No amendment which increases the  
3 liabilities of the plan by reason of any increase  
4 in benefits, any change in the accrual of bene-  
5 fits, or any change in the rate at which benefits  
6 become nonforfeitable under the plan shall be  
7 adopted during any applicable plan year,  
8 unless—

9           “(i) the plan’s enrolled actuary cer-  
10 tifies (in such form and manner prescribed  
11 by the Secretary) that the amendment pro-  
12 vides for an increase in annual contribu-  
13 tions which will exceed the increase in an-  
14 nual charges to the funding standard ac-  
15 count attributable to such amendment, or

16           “(ii) the amendment is required by a  
17 collective bargaining agreement which is in  
18 effect on the date of enactment of this sub-  
19 paragraph.

20           If a plan is amended during any applicable plan  
21 year in violation of the preceding sentence, any  
22 election under this paragraph shall not apply to  
23 any applicable plan year ending on or after the  
24 date on which such amendment is adopted.



1           “(C) APPLICABLE EMPLOYER.—For pur-  
2           poses of this paragraph, the term ‘applicable  
3           employer’ means an employer which is—

4                   “(i) a commercial passenger airline,

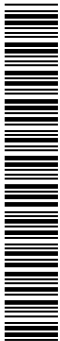
5                   “(ii) primarily engaged in the produc-  
6           tion or manufacture of a steel mill product  
7           or the processing of iron ore pellets, or

8                   “(iii) an organization described in sec-  
9           tion 501(c)(5) and which established the  
10          plan to which this paragraph applies on  
11          June 30, 1955.

12          “(D) APPLICABLE PLAN YEAR.—For pur-  
13          poses of this paragraph—

14                   “(i) IN GENERAL.—The term ‘applica-  
15          ble plan year’ means any plan year begin-  
16          ning after December 27, 2003, and before  
17          December 28, 2005, for which the em-  
18          ployer elects the application of this para-  
19          graph.

20                   “(ii) LIMITATION ON NUMBER OF  
21          YEARS WHICH MAY BE ELECTED.—An elec-  
22          tion may not be made under this para-  
23          graph with respect to more than 2 plan  
24          years.



1           “(E) ELECTION.—An election under this  
2           paragraph shall be made at such time and in  
3           such manner as the Secretary may prescribe.”

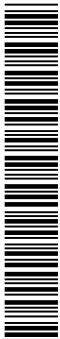
4           (c) EFFECT OF ELECTION.—An election under sec-  
5           tion 302(d)(12) of the Employee Retirement Income Secu-  
6           rity Act of 1974 or section 412(l)(12) of the Internal Rev-  
7           enue Code of 1986 (as added by this section) with respect  
8           to a plan shall not invalidate any obligation (pursuant to  
9           a collective bargaining agreement in effect on the date of  
10          the election) to provide benefits, to change the accrual of  
11          benefits, or to change the rate at which benefits become  
12          nonforfeitable under the plan.

13          (d) PENALTY FOR FAILING TO PROVIDE NOTICE.—  
14          Section 502(c)(3) of the Employee Retirement Income Se-  
15          curity Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by  
16          inserting “or who fails to meet the requirements of section  
17          302(d)(12)(E) with respect to any person” after  
18          “101(e)(2) with respect to any person”.

19          **SEC. 103. MULTIEMPLOYER PLAN FUNDING NOTICES.**

20          (a) IN GENERAL.—Section 101 of the Employee Re-  
21          tirement Income Security Act of 1974 (29 U.S.C. 1021)  
22          is amended by inserting after subsection (e) the following  
23          new subsection:

24          “(f) MULTIEMPLOYER DEFINED BENEFIT PLAN  
25          FUNDING NOTICES.—



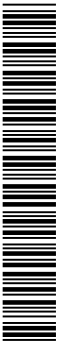
1           “(1) IN GENERAL.—The administrator of a de-  
2       fined benefit plan which is a multiemployer plan  
3       shall for each plan year provide a plan funding no-  
4       tice to each plan participant and beneficiary, to each  
5       labor organization representing such participants or  
6       beneficiaries, to each employer that has an obliga-  
7       tion to contribute under the plan, and to the Pen-  
8       sion Benefit Guaranty Corporation.

9           “(2) INFORMATION CONTAINED IN NOTICES.—

10           “(A) IDENTIFYING INFORMATION.—Each  
11       notice required under paragraph (1) shall con-  
12       tain identifying information, including the name  
13       of the plan, the address and phone number of  
14       the plan administrator and the plan’s principal  
15       administrative officer, each plan sponsor’s em-  
16       ployer identification number, and the plan num-  
17       ber of the plan.

18           “(B) SPECIFIC INFORMATION.—A plan  
19       funding notice under paragraph (1) shall  
20       include—

21           “(i) a statement as to whether the  
22       plan’s funded current liability percentage  
23       (as defined in section 302(d)(8)(B)) for  
24       the plan year to which the notice relates is



1 at least 100 percent (and, if not, the actual  
2 percentage);

3 “(ii) a statement of the value of the  
4 plan’s assets, the amount of benefit pay-  
5 ments, and the ratio of the assets to the  
6 payments for the plan year to which the  
7 notice relates;

8 “(iii) a summary of the rules gov-  
9 erning insolvent multiemployer plans, in-  
10 cluding the limitations on benefit payments  
11 and any potential benefit reductions and  
12 suspensions (and the potential effects of  
13 such limitations, reductions, and suspen-  
14 sions on the plan); and

15 “(iv) a general description of the ben-  
16 efits under the plan which are eligible to be  
17 guaranteed by the Pension Benefit Guar-  
18 anty Corporation, along with an expla-  
19 nation of the limitations on the guarantee  
20 and the circumstances under which such  
21 limitations apply.

22 “(C) OTHER INFORMATION.—Each notice  
23 under paragraph (1) shall include any addi-  
24 tional information which the plan administrator



1 elects to include to the extent not inconsistent  
2 with regulations prescribed by the Secretary.

3 “(3) TIME FOR PROVIDING NOTICE.—Any no-  
4 tice under paragraph (1) shall be provided no later  
5 than two months after the deadline (including exten-  
6 sions) for filing the annual report for the plan year  
7 to which the notice relates.

8 “(4) FORM AND MANNER.—Any notice under  
9 paragraph (1)—

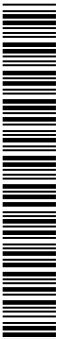
10 “(A) shall be provided in a form and man-  
11 ner prescribed in regulations of the Secretary,

12 “(B) shall be written in a manner so as to  
13 be understood by the average plan participant,  
14 and

15 “(C) may be provided in written, elec-  
16 tronic, or other appropriate form to the extent  
17 such form is reasonably accessible to persons to  
18 whom the notice is required to be provided.”

19 (b) PENALTIES.—Section 502(c)(1) of the Employee  
20 Retirement Income Security Act of 1974 (29 U.S.C.  
21 1132(c)(1)) is amended by striking “or section 101(e)(1)”  
22 and inserting “, section 101(e)(1), or section 101(f)”.

23 (c) REGULATIONS AND MODEL NOTICE.—The Sec-  
24 retary of Labor shall, not later than 1 year after the date  
25 of the enactment of this Act, issue regulations (including



1 a model notice) necessary to implement the amendments  
2 made by this section.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to plan years beginning after De-  
5 cember 31, 2004.

6 **SEC. 104. ELECTION FOR DEFERRAL OF CHARGE FOR POR-**  
7 **TION OF NET EXPERIENCE LOSS.**

8 (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
9 OF 1974.—

10 (1) IN GENERAL.—Section 302(b)(7) of the  
11 Employee Retirement Income Security Act of 1974  
12 (29 U.S.C.1082(b)(7)) is amended by adding at the  
13 end the following new subparagraph:

14 “(F) ELECTION FOR DEFERRAL OF  
15 CHARGE FOR PORTION OF NET EXPERIENCE  
16 LOSS.—

17 “(i) IN GENERAL.—With respect to  
18 the net experience loss of an eligible multi-  
19 employer plan for the first plan year begin-  
20 ning after December 31, 2001, the plan  
21 sponsor may elect to defer up to 80 per-  
22 cent of the amount otherwise required to  
23 be charged under paragraph (2)(B)(iv) for  
24 any plan year beginning after June 30,  
25 2003, and before July 1, 2005, to any plan

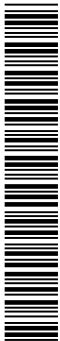


1 year selected by the plan from either of the  
2 immediately succeeding plan years.

3 “(ii) INTEREST.—For the plan year to  
4 which a charge is deferred pursuant to an  
5 election under clause (i), the funding  
6 standard account shall be charged with in-  
7 terest on the deferred charge for the period  
8 of deferral at the rate determined under  
9 section 304(a) for multiemployer plans.

10 “(iii) RESTRICTIONS ON BENEFIT IN-  
11 CREASES.—No amendment which increases  
12 the liabilities of the plan by reason of any  
13 increase in benefits, any change in the ac-  
14 crual of benefits, or any change in the rate  
15 at which benefits become nonforfeitable  
16 under the plan shall be adopted during any  
17 period for which a charge is deferred pur-  
18 suant to an election under clause (i),  
19 unless—

20 “(I) the plan’s enrolled actuary  
21 certifies (in such form and manner  
22 prescribed by the Secretary of the  
23 Treasury) that the amendment pro-  
24 vides for an increase in annual con-  
25 tributions which will exceed the in-





1                   crease in annual charges to the fund-  
2                   ing standard account attributable to  
3                   such amendment, or

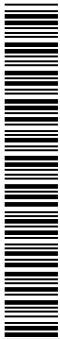
4                   “(II) the amendment is required  
5                   by a collective bargaining agreement  
6                   which is in effect on the date of enact-  
7                   ment of this subparagraph.

8                   If a plan is amended during any such plan  
9                   year in violation of the preceding sentence,  
10                  any election under this paragraph shall not  
11                  apply to any such plan year ending on or  
12                  after the date on which such amendment is  
13                  adopted.

14                  “(iv)   ELIGIBLE    MULTIEMPLOYER  
15                  PLAN.—For purposes of this subpara-  
16                  graph, the term ‘eligible multiemployer  
17                  plan’ means a multiemployer plan—

18                  “(I) which had a net investment  
19                  loss for the first plan year beginning  
20                  after December 31, 2001, of at least  
21                  10 percent of the average fair market  
22                  value of the plan assets during the  
23                  plan year, and

24                  “(II) with respect to which the  
25                  plan’s enrolled actuary certifies (not

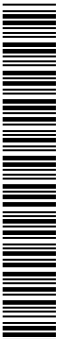


1 taking into account the application of  
2 this subparagraph), on the basis of  
3 the actuarial assumptions used for  
4 the last plan year ending before the  
5 date of the enactment of this subpara-  
6 graph, that the plan is projected to  
7 have an accumulated funding defi-  
8 ciency (within the meaning of sub-  
9 section (a)(2)) for any plan year be-  
10 ginning after June 30, 2003, and be-  
11 fore July 1, 2006.

12 For purposes of subclause (I), a plan's net  
13 investment loss shall be determined on the  
14 basis of the actual loss and not under any  
15 actuarial method used under subsection  
16 (c)(2).

17 “(v) EXCEPTION TO TREATMENT OF  
18 ELIGIBLE MULTIEMPLOYER PLAN.—In no  
19 event shall a plan be treated as an eligible  
20 multiemployer plan under clause (iv) if—

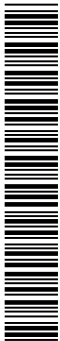
21 “(I) for any taxable year begin-  
22 ning during the 10-year period pre-  
23 ceding the first plan year for which an  
24 election is made under clause (i), any  
25 employer required to contribute to the



1 plan failed to timely pay any excise  
2 tax imposed under section 4971 of the  
3 Internal Revenue Code of 1986 with  
4 respect to the plan,

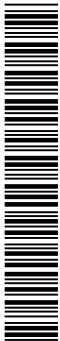
5 “(II) for any plan year beginning  
6 after June 30, 1993, and before the  
7 first plan year for which an election is  
8 made under clause (i), the average  
9 contribution required to be made by  
10 all employers to the plan does not ex-  
11 ceed 10 cents per hour or no employer  
12 is required to make contributions to  
13 the plan, or

14 “(III) with respect to any of the  
15 plan years beginning after June 30,  
16 1993, and before the first plan year  
17 for which an election is made under  
18 clause (i), a waiver was granted under  
19 section 303 of this Act or section  
20 412(d) of the Internal Revenue Code  
21 of 1986 with respect to the plan or an  
22 extension of an amortization period  
23 was granted under section 304 of this  
24 Act or section 412(e) of such Code  
25 with respect to the plan.



1           “(vi) NOTICE.—If a plan sponsor  
2 makes an election under this subparagraph  
3 or section 412(b)(7)(F) of the Internal  
4 Revenue Code of 1986 for any plan year,  
5 the plan administrator shall provide, within  
6 30 days of filing the election for such year,  
7 written notice of the election to partici-  
8 pants and beneficiaries, to each labor orga-  
9 nization representing such participants or  
10 beneficiaries, to each employer that has an  
11 obligation to contribute under the plan,  
12 and to the Pension Benefit Guaranty Cor-  
13 poration. Such notice shall include with re-  
14 spect to any election the amount of any  
15 charge to be deferred and the period of the  
16 deferral. Such notice shall also include the  
17 maximum guaranteed monthly benefits  
18 which the Pension Benefit Guaranty Cor-  
19 poration would pay if the plan terminated  
20 while underfunded.

21           “(vii) ELECTION.—An election under  
22 this subparagraph shall be made at such  
23 time and in such manner as the Secretary  
24 of the Treasury may prescribe.”



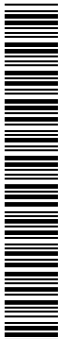
1           (2) PENALTY.—Section 502(c)(4) of such Act  
2           (29 U.S.C. 1132(c)(4)) is amended to read as fol-  
3           lows:

4           “(4) The Secretary may assess a civil penalty of  
5           not more than \$1,000 a day for each violation by  
6           any person of section 302(b)(7)(F)(vi).”

7           (b) INTERNAL REVENUE CODE OF 1986.—Section  
8           412(b)(7) of the Internal Revenue Code of 1986 (relating  
9           to special rules for multiemployer plans) is amended by  
10          adding at the end the following new subparagraph:

11                   “(F) ELECTION FOR DEFERRAL OF  
12                   CHARGE FOR PORTION OF NET EXPERIENCE  
13                   LOSS.—

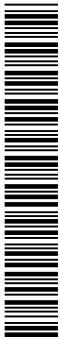
14                           “(i) IN GENERAL.—With respect to  
15                           the net experience loss of an eligible multi-  
16                           employer plan for the first plan year begin-  
17                           ning after December 31, 2001, the plan  
18                           sponsor may elect to defer up to 80 per-  
19                           cent of the amount otherwise required to  
20                           be charged under paragraph (2)(B)(iv) for  
21                           any plan year beginning after June 30,  
22                           2003, and before July 1, 2005, to any plan  
23                           year selected by the plan from either of the  
24                           2 immediately succeeding plan years.



1           “(ii) INTEREST.—For the plan year to  
2           which a charge is deferred pursuant to an  
3           election under clause (i), the funding  
4           standard account shall be charged with in-  
5           terest on the deferred charge for the period  
6           of deferral at the rate determined under  
7           subsection (d) for multiemployer plans.

8           “(iii) RESTRICTIONS ON BENEFIT IN-  
9           CREASES.—No amendment which increases  
10          the liabilities of the plan by reason of any  
11          increase in benefits, any change in the ac-  
12          crual of benefits, or any change in the rate  
13          at which benefits become nonforfeitable  
14          under the plan shall be adopted during any  
15          period for which a charge is deferred pur-  
16          suant to an election under clause (i),  
17          unless—

18               “(I) the plan’s enrolled actuary  
19               certifies (in such form and manner  
20               prescribed by the Secretary) that the  
21               amendment provides for an increase  
22               in annual contributions which will ex-  
23               ceed the increase in annual charges to  
24               the funding standard account attrib-  
25               utable to such amendment, or



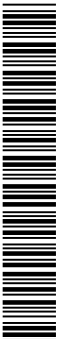
1 “(II) the amendment is required  
2 by a collective bargaining agreement  
3 which is in effect on the date of enact-  
4 ment of this subparagraph.

5 If a plan is amended during any such plan  
6 year in violation of the preceding sentence,  
7 any election under this paragraph shall not  
8 apply to any such plan year ending on or  
9 after the date on which such amendment is  
10 adopted.

11 “(iv) ELIGIBLE MULTIEMPLOYER  
12 PLAN.—For purposes of this subpara-  
13 graph, the term ‘eligible multiemployer  
14 plan’ means a multiemployer plan—

15 “(I) which had a net investment  
16 loss for the first plan year beginning  
17 after December 31, 2001, of at least  
18 10 percent of the average fair market  
19 value of the plan assets during the  
20 plan year, and

21 “(II) with respect to which the  
22 plan’s enrolled actuary certifies (not  
23 taking into account the application of  
24 this subparagraph), on the basis of  
25 the acutuarial assumptions used for

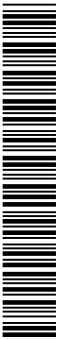


1 the last plan year ending before the  
2 date of the enactment of this subpara-  
3 graph, that the plan is projected to  
4 have an accumulated funding defi-  
5 ciency (within the meaning of sub-  
6 section (a)) for any plan year begin-  
7 ning after June 30, 2003, and before  
8 July 1, 2006.

9 For purposes of subclause (I), a plan's net  
10 investment loss shall be determined on the  
11 basis of the actual loss and not under any  
12 actuarial method used under subsection  
13 (c)(2).

14 “(v) EXCEPTION TO TREATMENT OF  
15 ELIGIBLE MULTIEMPLOYER PLAN.—In no  
16 event shall a plan be treated as an eligible  
17 multiemployer plan under clause (iv) if—

18 “(I) for any taxable year begin-  
19 ning during the 10-year period pre-  
20 ceding the first plan year for which an  
21 election is made under clause (i), any  
22 employer required to contribute to the  
23 plan failed to timely pay any excise  
24 tax imposed under section 4971 with  
25 respect to the plan,

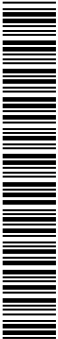




1 “(II) for any plan year beginning  
2 after June 30, 1993, and before the  
3 first plan year for which an election is  
4 made under clause (i), the average  
5 contribution required to be made by  
6 all employers to the plan does not ex-  
7 ceed 10 cents per hour or no employer  
8 is required to make contributions to  
9 the plan, or

10 “(III) with respect to any of the  
11 plan years beginning after June 30,  
12 1993, and before the first plan year  
13 for which an election is made under  
14 clause (i), a waiver was granted under  
15 section 412(d) or section 303 of the  
16 Employee Retirement Income Security  
17 Act of 1974 with respect to the plan  
18 or an extension of an amortization pe-  
19 riod was granted under subsection (e)  
20 or section 304 of such Act with re-  
21 spect to the plan.

22 “(vi) ELECTION.—An election under  
23 this subparagraph shall be made at such  
24 time and in such manner as the Secretary  
25 may prescribe.”



1     **TITLE II—OTHER PROVISIONS**

2     **SEC. 201. 2-YEAR EXTENSION OF TRANSITION RULE TO**  
3             **PENSION FUNDING REQUIREMENTS.**

4             (a) IN GENERAL.—Section 769(c) of the Retirement  
5     Protection Act of 1994, as added by section 1508 of the  
6     Taxpayer Relief Act of 1997, is amended—

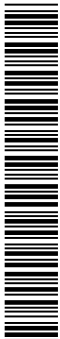
7                 (1) by inserting “except as provided in para-  
8             graph (3),” before “the transition rules”, and

9                 (2) by adding at the end the following:

10             “(3) SPECIAL RULES.—In the case of plan years be-  
11     ginning in 2004 and 2005, the following transition rules  
12     shall apply in lieu of the transition rules described in para-  
13     graph (2):

14                 “(A) For purposes of section 412(l)(9)(A)  
15             of the Internal Revenue Code of 1986 and sec-  
16             tion 302(d)(9)(A) of the Employee Retirement  
17             Income Security Act of 1974, the funded cur-  
18             rent liability percentage for any plan year shall  
19             be treated as not less than 90 percent.

20                 “(B) For purposes of section 412(m) of  
21             the Internal Revenue Code of 1986 and section  
22             302(e) of the Employee Retirement Income Se-  
23             curity Act of 1974, the funded current liability  
24             percentage for any plan year shall be treated as  
25             not less than 100 percent.



1           “(C) For purposes of determining un-  
2           funded vested benefits under section  
3           4006(a)(3)(E)(iii) of the Employee Retirement  
4           Income Security Act of 1974, the mortality  
5           table shall be the mortality table used by the  
6           plan.”

7           (b) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to plan years beginning after De-  
9           cember 31, 2003.

10   **SEC. 202. PROCEDURES APPLICABLE TO DISPUTES INVOLV-**  
11                   **ING PENSION PLAN WITHDRAWAL LIABILITY.**

12           (a) IN GENERAL.—Section 4221 of the Employee Re-  
13           tirement Income Security Act of 1974 (29 U.S.C. 1401)  
14           is amended by adding at the end the following new sub-  
15           section:

16           “(f) PROCEDURES APPLICABLE TO CERTAIN DIS-  
17           PUTES.—

18           “(1) IN GENERAL.—If—

19                   “(A) a plan sponsor of a plan determines  
20           that—

21                           “(i) a complete or partial withdrawal  
22                           of an employer has occurred, or

23                           “(ii) an employer is liable for with-  
24                           drawal liability payments with respect to



1 the complete or partial withdrawal of an  
2 employer from the plan,

3 “(B) such determination is based in whole  
4 or in part on a finding by the plan sponsor  
5 under section 4212(c) that a principal purpose  
6 of a transaction that occurred before January  
7 1, 1999, was to evade or avoid withdrawal li-  
8 ability under this subtitle, and

9 “(C) such transaction occurred at least 5  
10 years before the date of the complete or partial  
11 withdrawal,

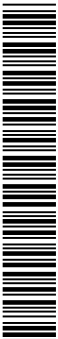
12 then the special rules under paragraph (2) shall be  
13 used in applying subsections (a) and (d) of this sec-  
14 tion and section 4219(c) to the employer.

15 “(2) SPECIAL RULES.—

16 “(A) DETERMINATION.—Notwithstanding  
17 subsection (a)(3)—

18 “(i) a determination by the plan spon-  
19 sor under paragraph (1)(B) shall not be  
20 presumed to be correct, and

21 “(ii) the plan sponsor shall have the  
22 burden to establish, by a preponderance of  
23 the evidence, the elements of the claim  
24 under section 4212(c) that a principal pur-  
25 pose of the transaction was to evade or

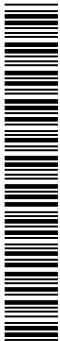


1           avoid withdrawal liability under this sub-  
2           title.

3           Nothing in this subparagraph shall affect the  
4           burden of establishing any other element of a  
5           claim for withdrawal liability under this sub-  
6           title.

7           “(B) PROCEDURE.—Notwithstanding sub-  
8           section (d) and section 4219(c), if an employer  
9           contests the plan sponsor’s determination under  
10          paragraph (1) through an arbitration pro-  
11          ceeding pursuant to subsection (a), or through  
12          a claim brought in a court of competent juris-  
13          diction, the employer shall not be obligated to  
14          make any withdrawal liability payments until a  
15          final decision in the arbitration proceeding, or  
16          in court, upholds the plan sponsor’s determina-  
17          tion.”.

18          (b) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply to any employer that receives a  
20          notification under section 4219(b)(1) of the Employee Re-  
21          tirement Income Security Act of 1974 (29 U.S.C.  
22          1399(b)(1)) after October 31, 2003.



1 **SEC. 203. SENSE OF CONGRESS REGARDING DEFINED BEN-**  
2 **EFIT PENSION SYSTEM REFORM.**

3 It is the sense of the Congress that the Congress  
4 must ensure the financial health of the defined benefit  
5 pension system by working to promptly implement—

6 (1) a permanent replacement for the pension  
7 discount rate used for defined benefit pension plan  
8 calculations, and

9 (2) comprehensive funding reforms for all de-  
10 fined benefit pension plans aimed at achieving accu-  
11 rate and sound pension funding to enhance retire-  
12 ment security for workers who rely on defined pen-  
13 sion plan benefits, to reduce the volatility of con-  
14 tributions, to provide plan sponsors with predict-  
15 ability for plan contributions, and to ensure ade-  
16 quate disclosures for plan participants in the case of  
17 underfunded pension plans.

18 **SEC. 204. EXTENSION OF TRANSFERS OF EXCESS PENSION**  
19 **ASSETS TO RETIREE HEALTH ACCOUNTS.**

20 (a) AMENDMENT OF INTERNAL REVENUE CODE OF  
21 1986.—Paragraph (5) of section 420(b) of the Internal  
22 Revenue Code of 1986 (relating to expiration) is amended  
23 by striking “December 31, 2005” and inserting “Decem-  
24 ber 31, 2013”.

25 (b) AMENDMENTS OF ERISA.—



1           (1) Section 101(e)(3) of the Employee Retirement  
2           Income Security Act of 1974 (29 U.S.C.  
3           1021(e)(3)) is amended by striking “Tax Relief Ex-  
4           tension Act of 1999” and inserting “Pension Fund-  
5           ing Equity Act of 2004”.

6           (2) Section 403(c)(1) of such Act (29 U.S.C.  
7           1103(c)(1)) is amended by striking “Tax Relief Ex-  
8           tension Act of 1999” and inserting “Pension Fund-  
9           ing Equity Act of 2004”.

10          (3) Paragraph (13) of section 408(b) of such  
11          Act (29 U.S.C. 1108(b)(3)) is amended—

12                 (A) by striking “January 1, 2006” and in-  
13                 serting “January 1, 2014”, and

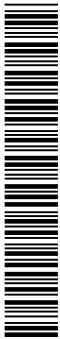
14                 (B) by striking “Tax Relief Extension Act  
15                 of 1999” and inserting “Pension Funding Eq-  
16                 uity Act of 2004”.

17   **SEC. 205. REPEAL OF REDUCTION OF DEDUCTIONS FOR**  
18                 **MUTUAL LIFE INSURANCE COMPANIES.**

19          (a) IN GENERAL.—Section 809 of the Internal Rev-  
20          enue Code of 1986 (relating to reductions in certain de-  
21          duction of mutual life insurance companies) is hereby re-  
22          pealed.

23          (b) CONFORMING AMENDMENTS.—

24                 (1) Subsections (a)(2)(B) and (b)(1)(B) of sec-  
25          tion 807 of such Code are each amended by striking



1 “the sum of (i)” and by striking “plus (ii) any ex-  
2 cess described in section 809(a)(2) for the taxable  
3 year,”.

4 (2)(A) The last sentence of section 807(d)(1) of  
5 such Code is amended by striking “section  
6 809(b)(4)(B)” and inserting “paragraph (6)”.

7 (B) Subsection (d) of section 807 of such Code  
8 is amended by adding at the end the following new  
9 paragraph:

10 “(6) STATUTORY RESERVES.—The term ‘statu-  
11 tory reserves’ means the aggregate amount set forth  
12 in the annual statement with respect to items de-  
13 scribed in section 807(c). Such term shall not in-  
14 clude any reserve attributable to a deferred and un-  
15 collected premium if the establishment of such re-  
16 serve is not permitted under section 811(c).”

17 (3) Subsection (c) of section 808 of such Code  
18 is amended to read as follows:

19 “(c) AMOUNT OF DEDUCTION.—The deduction for  
20 policyholder dividends for any taxable year shall be an  
21 amount equal to the policyholder dividends paid or accrued  
22 during the taxable year.”

23 (4) Subparagraph (A) of section 812(b)(3) of  
24 such Code is amended by striking “sections 808 and  
25 809” and inserting “section 808”.





1           (5) Subsection (c) of section 817 of such Code  
2           is amended by striking “(other than section 809)”.

3           (6) Subsection (c) of section 842 of such Code  
4           is amended by striking paragraph (3) and by redesh-  
5           ignating paragraph (4) as paragraph (3).

6           (7) The table of sections for subpart C of part  
7           I of subchapter L of chapter 1 of such Code is  
8           amended by striking the item relating to section  
9           809.

10          (c) EFFECTIVE DATE.—The amendments made by  
11          this section shall apply to taxable years beginning after  
12          December 31, 2004.

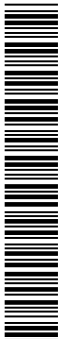
13          **SEC. 206. CLARIFICATION OF EXEMPTION FROM TAX FOR**  
14                               **SMALL PROPERTY AND CASUALTY INSUR-**  
15                               **ANCE COMPANIES.**

16          (a) IN GENERAL.—Section 501(c)(15)(A) of the In-  
17          ternal Revenue Code of 1986 is amended to read as fol-  
18          lows:

19               “(A) Insurance companies (as defined in section  
20               816(a)) other than life (including interinsurers and  
21               reciprocal underwriters) if—

22                       “(i)(I) the gross receipts for the taxable  
23                       year do not exceed \$600,000, and

24                       “(II) more than 50 percent of such gross  
25                       receipts consist of premiums, or



1 “(ii) in the case of a mutual insurance  
2 company—

3 “(I) the gross receipts of which for  
4 the taxable year do not exceed \$150,000,  
5 and

6 “(II) more than 35 percent of such  
7 gross receipts consist of premiums.

8 Clause (ii) shall not apply to a company if any em-  
9 ployee of the company, or a member of the employ-  
10 ee’s family (as defined in section 2032A(e)(2)), is an  
11 employee of another company exempt from taxation  
12 by reason of this paragraph (or would be so exempt  
13 but for this sentence).”.

14 (b) CONTROLLED GROUP RULE.—Section  
15 501(c)(15)(C) of the Internal Revenue Code of 1986 is  
16 amended by inserting “, except that in applying section  
17 831(b)(2)(B)(ii) for purposes of this subparagraph, sub-  
18 paragraphs (B) and (C) of section 1563(b)(2) shall be dis-  
19 regarded” before the period at the end.

20 (c) DEFINITION OF INSURANCE COMPANY FOR SEC-  
21 TION 831.—Section 831 of the Internal Revenue Code of  
22 1986 is amended by redesignating subsection (c) as sub-  
23 section (d) and by inserting after subsection (b) the fol-  
24 lowing new subsection:



1       “(c) INSURANCE COMPANY DEFINED.—For purposes  
2 of this section, the term ‘insurance company’ has the  
3 meaning given to such term by section 816(a)).”.

4       (d) CONFORMING AMENDMENT.—Clause (i) of sec-  
5 tion 831(b)(2)(A) of the Internal Revenue Code of 1986  
6 is amended by striking “exceed \$350,000 but”.

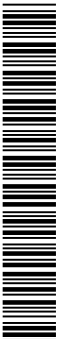
7       (e) EFFECTIVE DATE.—

8           (1) IN GENERAL.—Except as provided in para-  
9 graph (2), the amendments made by this section  
10 shall apply to taxable years beginning after Decem-  
11 ber 31, 2003.

12           (2) TRANSITION RULE FOR COMPANIES IN RE-  
13 CEIVERSHIP OR LIQUIDATION.—In the case of a  
14 company or association which—

15           (A) for the taxable year which includes  
16 April 1, 2004, meets the requirements of sec-  
17 tion 501(c)(15)(A) of the Internal Revenue  
18 Code of 1986, as in effect for the last taxable  
19 year beginning before January 1, 2004, and

20           (B) on April 1, 2004, is in a receivership,  
21 liquidation, or similar proceeding under the su-  
22 pervision of a State court,  
23 the amendments made by this section shall apply to  
24 taxable years beginning after the earlier of the date  
25 such proceeding ends or December 31, 2007.



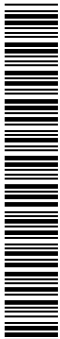
1 **SEC. 207. CONFIRMATION OF ANTITRUST STATUS OF GRAD-**  
2 **UATE MEDICAL RESIDENT MATCHING PRO-**  
3 **GRAMS.**

4 (a) FINDINGS AND PURPOSES.—

5 (1) FINDINGS.—Congress makes the following  
6 findings:

7 (A) For over 50 years, most United States  
8 medical school seniors and the large majority of  
9 graduate medical education programs (popu-  
10 larly known as “residency programs”) have cho-  
11 sen to use a matching program to match med-  
12 ical students with residency programs to which  
13 they have applied. These matching programs  
14 have been an integral part of an educational  
15 system that has produced the finest physicians  
16 and medical researchers in the world.

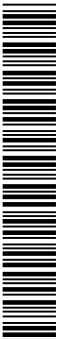
17 (B) Before such matching programs were  
18 instituted, medical students often felt pressure,  
19 at an unreasonably early stage of their medical  
20 education, to seek admission to, and accept of-  
21 fers from, residency programs. As a result,  
22 medical students often made binding commit-  
23 ments before they were in a position to make an  
24 informed decision about a medical specialty or  
25 a residency program and before residency pro-  
26 grams could make an informed assessment of



1 students' qualifications. This situation was inef-  
2 ficient, chaotic, and unfair and it often led to  
3 placements that did not serve the interests of  
4 either medical students or residency programs.

5 (C) The original matching program, now  
6 operated by the independent non-profit Na-  
7 tional Resident Matching Program and popu-  
8 larly known as "the Match," was developed and  
9 implemented more than 50 years ago in re-  
10 sponse to widespread student complaints about  
11 the prior process. This Program includes on its  
12 board of directors individuals nominated by  
13 medical student organizations as well as by  
14 major medical education and hospital associa-  
15 tions.

16 (D) The Match uses a computerized math-  
17 ematical algorithm, as students had rec-  
18 ommended, to analyze the preferences of stu-  
19 dents and residency programs and match stu-  
20 dents with their highest preferences from  
21 among the available positions in residency pro-  
22 grams that listed them. Students thus obtain a  
23 residency position in the most highly ranked  
24 program on their list that has ranked them suf-  
25 ficiently high among its preferences. Each year,

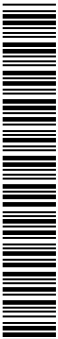


1 about 85 percent of participating United States  
2 medical students secure a place in one of their  
3 top 3 residency program choices.

4 (E) Antitrust lawsuits challenging the  
5 matching process, regardless of their merit or  
6 lack thereof, have the potential to undermine  
7 this highly efficient, pro-competitive, and long-  
8 standing process. The costs of defending such  
9 litigation would divert the scarce resources of  
10 our country's teaching hospitals and medical  
11 schools from their crucial missions of patient  
12 care, physician training, and medical research.  
13 In addition, such costs may lead to abandon-  
14 ment of the matching process, which has effec-  
15 tively served the interests of medical students,  
16 teaching hospitals, and patients for over half a  
17 century.

18 (2) PURPOSES.—It is the purpose of this sec-  
19 tion to—

20 (A) confirm that the antitrust laws do not  
21 prohibit sponsoring, conducting, or partici-  
22 pating in a graduate medical education resi-  
23 dency matching program, or agreeing to do so;  
24 and



1 (B) ensure that those who sponsor, con-  
2 duct or participate in such matching programs  
3 are not subjected to the burden and expense of  
4 defending against litigation that challenges such  
5 matching programs under the antitrust laws.

6 (b) APPLICATION OF ANTITRUST LAWS TO GRAD-  
7 UATE MEDICAL EDUCATION RESIDENCY MATCHING PRO-  
8 GRAMS.—

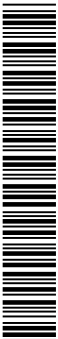
9 (1) DEFINITIONS.—In this subsection:

10 (A) ANTITRUST LAWS.—The term “anti-  
11 trust laws”—

12 (i) has the meaning given such term  
13 in subsection (a) of the first section of the  
14 Clayton Act (15 U.S.C. 12(a)), except that  
15 such term includes section 5 of the Federal  
16 Trade Commission Act (15 U.S.C. 45) to  
17 the extent such section 5 applies to unfair  
18 methods of competition; and

19 (ii) includes any State law similar to  
20 the laws referred to in clause (i).

21 (B) GRADUATE MEDICAL EDUCATION PRO-  
22 GRAM.—The term “graduate medical education  
23 program” means—



1 (i) a residency program for the med-  
2 ical education and training of individuals  
3 following graduation from medical school;

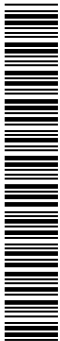
4 (ii) a program, known as a specialty  
5 or subspecialty fellowship program, that  
6 provides more advanced training; and

7 (iii) an institution or organization  
8 that operates, sponsors or participates in  
9 such a program.

10 (C) GRADUATE MEDICAL EDUCATION RESI-  
11 DENCY MATCHING PROGRAM.—The term “grad-  
12 uate medical education residency matching pro-  
13 gram” means a program (such as those con-  
14 ducted by the National Resident Matching Pro-  
15 gram) that, in connection with the admission of  
16 students to graduate medical education pro-  
17 grams, uses an algorithm and matching rules to  
18 match students in accordance with the pref-  
19 erences of students and the preferences of grad-  
20 uate medical education programs.

21 (D) STUDENT.—The term “student”  
22 means any individual who seeks to be admitted  
23 to a graduate medical education program.

24 (2) CONFIRMATION OF ANTITRUST STATUS.—It  
25 shall not be unlawful under the antitrust laws to





1 sponsor, conduct, or participate in a graduate med-  
2 ical education residency matching program, or to  
3 agree to sponsor, conduct, or participate in such a  
4 program. Evidence of any of the conduct described  
5 in the preceding sentence shall not be admissible in  
6 Federal court to support any claim or action alleging  
7 a violation of the antitrust laws.

8 (3) APPLICABILITY.—Nothing in this section  
9 shall be construed to exempt from the antitrust laws  
10 any agreement on the part of 2 or more graduate  
11 medical education programs to fix the amount of the  
12 stipend or other benefits received by students par-  
13 ticipating in such programs.

14 (c) EFFECTIVE DATE.—This section shall take effect  
15 on the date of enactment of this Act, shall apply to con-  
16 duct whether it occurs prior to, on, or after such date of  
17 enactment, and shall apply to all judicial and administra-  
18 tive actions or other proceedings pending on such date of  
19 enactment.

